

LONDON BOROUGH OF CAMDEN	WARD: All
REPORT TITLE: Camden's Statement of Licensing Policy 2018-2021 under the Gambling Act 2005 (SC/2017/47)	
REPORT OF: Executive Director Supporting Communities	
FOR SUBMISSION TO: Culture and Environment Scrutiny Committee Licensing Committee Cabinet Council	DATE: 4 December 2017 5 December 2017 6 December 2017 29 January 2018
SUMMARY OF REPORT	
<p>This report sets out the purpose of Camden's Statement of Licensing Policy (the Policy) under the Gambling Act 2005 and explains the process the Council has followed to review and amend its current Policy.</p> <p>The Policy helps to deliver the Camden Plan objectives of creating conditions for and harnessing the benefits of economic growth, and investing in our communities to ensure sustainable neighbourhoods.</p> <p>It informs the Licensing Committee of the responses to the statutory 12 weeks consultation, proposes a number of changes to the existing Policy and the introduction of a Local Area Profile (LAP), which is an assessment of the key characteristics of Camden in the context of gambling-related harm.</p> <p>This report presents the draft Policy at Appendix 1 and LAP at Appendix 2 and asks the Licensing Committee to consider, comment on and recommend that the Council approve and adopt the revised Policy and LAP for publication.</p>	
LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION	
<p>The following documents were used in the preparation of this report:</p> <ol style="list-style-type: none"> 1. Gambling Act 2005 2. The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 3. Guidance to licensing authorities 5th edition September 2015 issued by the Gambling Commission under section 25 of Gambling Act 2005 4. Camden's Statement of Licensing Principles 2016-2019 5. Licensing Committee Report and Minutes, 19 April 2017 	
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WHAT DECISIONS ARE BEING ASKED FOR

That the Culture and Environment Scrutiny Committee

1. Note and comment on the revised draft Statement of Licensing Policy 2018-2021 at Appendix 1 and Local Area Profile at Appendix 2 and refer any comments on to the Licensing Committee for consideration.

That the Licensing Committee

1. Having regard to any comments from the Culture and Environment Scrutiny Committee, note the responses to the statutory consultation at Appendix 3 and agree the revised draft Statement of Licensing Policy 2018-2021 at Appendix 1 and Local Area Profile at Appendix 2 for referral to Council for decision.
2. Recommend that the Council adopt the revised draft Statement of Licensing Policy 2018-2021 at Appendix 1 and Local Area Profile at Appendix 2 for publication.

That the Cabinet

1. Note the content of the proposed Policy, the Local Area Profile and the Licensing Committee's recommendation to Council and any comments made by the Culture and Environment Scrutiny Committee.
2. Endorse the Licensing Committee's decision to refer the draft Statement of Licensing Policy 2018-2021 and Local Area Profile to full Council for adoption and publication.

That the Council

1. Approve and adopt the revised draft Statement of Licensing Policy 2018-2021 at Appendix 1 and Local Area Profile at Appendix 2 for publication, to take effect on 14 March 2018.

Signed by Paul Dunphy: Director of Place Management

A handwritten signature in black ink, appearing to read 'P. Dunphy', with a long horizontal flourish extending to the right.

Date: **23 November 2017**

1. WHAT IS THIS REPORT ABOUT?

- 1.1. The Council has powers under the Gambling Act 2005 (the Act) to regulate some gambling activity in Camden. The Act divides responsibility for regulation between the Gambling Commission and local authorities. The Commission is responsible for regulating commercial gambling and issues of national importance such as on-line gambling and gambling advertising, and the Council is responsible for local regulation of premises licences and low-level gaming permits.
- 1.2. The Council must carry out its licensing functions in accordance with the Act, the Gambling Commission's Guidance to Licensing Authorities (GLA) and its adopted Statement of Licensing Policy under the Gambling Act 2005 (the Policy) with a view to promoting the three statutory licensing objectives:
 - a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - b) ensuring that gambling is conducted in a fair and open way; and
 - c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.3. The Policy ensures that the Council has effective and appropriate licensing strategies that respond to the borough's unique characteristics while helping to deliver the Camden Plan objectives of creating conditions for and harnessing the benefits of economic growth, and investing in our communities to ensure sustainable neighbourhoods.
- 1.4. As such, the Policy plays an important role in the Council's duty to manage the risk of gambling-related harm in Camden and to regulate gambling activity to mitigate the risk of such harm. Members are asked to note that the extent of the Council's powers under the Act are limited, for example, the Council cannot control the maximum value of the stakes or prizes for gaming machines in betting shops and cannot prevent television advertising or online gambling. These limitations are set out in the Policy. The Council can however, formally support proposals to reduce the maximum stake for gaming machines from £100 to £2 and other measures to reduce for example, the number of gaming machines allowed in gambling premises. This is also set out in the Policy.
- 1.5. The Licensing Committee carries out the Council's functions under the Act and oversees any review and development of the Policy, but the full Council must approve, adopt and publish the Policy before it can take effect.

2. WHY IS THIS REPORT NECESSARY?

- 2.1. The Council is required to publish a Statement of Licensing Policy, which sets its general approach to how it will regulate gambling activities. This helps maintain consistency, builds public confidence and assists in meeting the Council's key strategic objectives.

- 2.2. The Policy seeks to balance the right of a person to make an application for a premises licence, against the right of any person to object to an application or to seek a review of an existing licence. An effective balance will help gambling businesses and operators to develop successfully whilst providing assurance to the public. This assists in the Council's strategic priorities by supporting business and maintaining the safety and wellbeing of its residents.
- 2.3. The Council must determine and publish its Policy every three years, however during each three-year period, the Council must keep its Policy under review and make revisions, as it considers appropriate. If it makes revisions, the Council must consult on any changes before approving, adopting and publishing an amended Policy.
- 2.4. Following a review of the Policy in 2014, the Licensing Committee agreed to refer a revised draft policy to the Council for approval and publication. However, before the draft policy could be progressed through the Council's business process, the Gambling Commission made significant changes to its GLA late in 2015. The Council was unable to incorporate these changes in its Policy, consult and publish a revised Policy within the legal time limit.
- 2.5. Consequently, in November 2015, the Council agreed to re-publish its 2011 Policy without making changes and this took effect on 31 January 2016. The Council took this decision to allow it to continue to carry out its licensing functions in respect of gambling, in accordance with legal requirements whilst officers carried out a comprehensive review of the Policy in light of the GLA changes.
- 2.6. Officers subsequently completed the review and in April 2017, the Licensing Committee agreed a public consultation on the proposed changes to the current Policy and the introduction of a new Local Area Profile (LAP).
- 2.7. The key changes to the current Policy are:
 - a) The creation of a new LAP that identifies the key characteristics of people in Camden who may be vulnerable to gambling-related harm, where they are located and the level of risk in those locations. The Council will use the LAP to understand the potential, actual and emerging risks in Camden, to inform the Policy and provide the basis for an evidence based approach to decision making when carrying out its licensing functions. In particular, Licensing Panels will have regard to the LAP when determining licence applications and reviews. Gambling operators will use the LAP when proposing measures to mitigate the risk of harm from their venues on individuals and the community.
 - b) A change to a unique localised format with changes to the layout, style and wording so it is written in plain English that is easy to understand. This includes updates to reflect changes in the law and national guidance and removal of sections that were out of date or no longer relevant to reflect the changes in the GLA and LCCP.

c) The following substantive changes

- (1) A new chapter one, setting out specific matters required by the Act to include a subsection listing the activities that the Council has no powers to deal with, a new sub-section setting out the relationship between the legislation, the Policy, the GLA and the Camden Plan and Camden's general policy principles
- (2) A new chapter three, to introduce Camden's local area profile and a requirement on gambling operators to produce risk assessments having regard to the LAP. Changes to all chapters to referenced the LAP.
- (3) A new chapter five, to identify the different types of premises licences and set out Camden's expectations of operators in respect of each premises type.
- (4) A change in chapter five to the Council's existing resolution not to issue premises licences for casinos. The Council is not permitted in law to issue casino premises licences therefore it is proposed that there is no need to make a resolution to this effect and this is set out the draft Policy at paragraphs 5.17 to 5.20.

2.8. The Licensing Committee is asked to consider the responses to the statutory consultation at Appendix 3 and the summary of proposed changes to the draft Policy at Appendix 4 and agree the revised draft Statement of Licensing Policy 2018-2021 at Appendix 1 and LAP at Appendix 2 for referral to Council for adoption.

3. OPTIONS

3.1. There are three options to consider:

Option 1: Do nothing. The current Policy will continue until it expires on 30 January 2019. However, in its current form the Policy will in time, become outdated and will no longer reflect current circumstances in Camden.

Option 2: Agree, adopt and publish a new Policy. The Council has completed the comprehensive review that has informed the development of the draft Policy at Appendix 1 and LAP at Appendix 2.

Option 3: Not agree the proposed Policy and LAP and refer both documents back to officers for further development.

3.2. The recommended option is Option 2.

4. WHAT ARE THE REASONS FOR THE RECOMMENDED DECISIONS?

- 4.1. The existing Policy has been a robust tool used by the Council in the decision-making process for gambling activity, but it needs updating to ensure that it continues to reflect current law, national guidance and local concerns in the context of the Camden Plan. Approving a revised Policy and LAP that are up to date and appropriate for Camden, will enable the Council to continue to carry out its licensing functions.
- 4.2. Officers do not regard Option 1 to be viable as over time, the Policy will become outdated and the Council may be unable to rely on it to carry out its licensing functions under the Act.

5. WHAT ARE THE KEY IMPACTS/RISKS? HOW WILL THEY BE ADDRESSED

- 5.1. If the Council does not approve a revised Policy, the key risk is that in the future, the Council would be unable to base its decisions on up to date circumstances when carrying out any of its legal functions under the Act. The Council can eliminate this risk by approving the draft revised Policy.
- 5.2. An outdated Policy would hinder the way that the gambling trade operates, with potential negative impacts for local communities and residents.
- 5.3. Officers have had regard to the Council's equality duty when developing the Policy. The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including licensing powers. This duty is explained in Section 9 below.
- 5.4. Officers have assessed the proposed changes to the draft Policy in terms of its impact upon those duties. The equalities impact assessment (EIA) at Appendix 5 did not highlight any areas where the introduction of the Policy would raise issues of inequalities or place anyone with a protected characteristic at a disadvantage. Members should have due regard to the EIA when determining the Policy.
- 5.5. Officers have considered whether the licensing policy could be a vehicle to advance opportunity and foster good relations between those with protected characteristics. In this instance, they were unable to find ways to use the Policy in this way however, officers will keep this under review.

6. WHAT ACTIONS WILL BE TAKEN AND WHEN FOLLOWING THE DECISION AND HOW WILL THIS BE MONITORED?

- 6.1. Following the Council's decision, and if approval is given, officers will publish the revised Policy by making it available on Camden's website and will place a public notice in the Camden New Journal.

- 6.2. If approved, the revised Policy will take effect from 14 March 2018 until 13 March 2021.

7. LINKS TO THE CAMDEN PLAN OBJECTIVES

- 7.1. The Council is required to publish a Statement of Licensing Policy, which sets its general approach to how it will regulate gambling activities. The Policy seeks to balance the right of a person to make an application for a premises licence, against the right of any person to object to an application or to seek a review of an existing licence. An effective balance will help businesses to develop successfully whilst providing assurance to the public. This helps to promote the Camden Plan objective of creating conditions for and harnessing the benefits of economic growth.
- 7.2. The Policy seeks to manage the risk of gambling-related harm in Camden and to regulate gambling activity to mitigate the risk of such harm. The Policy has a strong focus on keeping children and other vulnerable residents safe from gambling-related harm and promotes the Camden Plan objective of investing in our communities to ensure sustainable neighbourhoods.

8. CONSULTATION

- 8.1. The Council carried out a statutory consultation on the draft Policy and LAP, which ran for 12 weeks, from 9 June until 1 September 2017.
- 8.2. The Council consulted the statutory consultees (Police, all premises licence and permit holders, and representatives of businesses and residents in Camden). The Council also extended the consultation to 630 other key stakeholders to include faith groups, ethnic group associations, neighbouring licensing authorities, relevant Council teams, the Mayor's Office for Policing and Crime, all Ward Councillors, all responsible authorities under the Licensing Act 2003, and the Community Safety Partnership Board. This gave all groups that may be affected the opportunity to comment.
- 8.3. Officers also published a notice in the Camden New Journal, news items on the Council's website and 'tweeted' from @camdentalking at the beginning of the consultation with further tweets periodically throughout the consultation.
- 8.4. The Council received three responses to the online consultation. The responses show support for the proposed changes to the Policy and for the introduction of the LAP as agreed by the Licensing Committee in April 2017. The breakdown of respondents is:
- 1 Camden resident
 - 1 resident's association or similar group
 - 1 solicitor associated with the licensed trade

- 8.5. The responses suggest only some minor amendments or inclusions to provide clarity. The responses to the statutory consultation are at Appendix 3 and have been incorporated in the draft Policy.
- 8.6. Officers have considered the responses and propose some minor changes to the draft Policy approved by the Licensing Committee for consultation in April 2017. A summary of proposed additional changes to the draft Policy is at Appendix 4.

9. LEGAL IMPLICATIONS (comments from the Borough Solicitor)

- 9.1. The Borough Solicitor has been consulted and legal comments have been incorporated in this report.
- 9.2. Before it approves and adopts its Policy, the Council must consult those persons listed in section 349(3) of the Act. These are:
- a) the chief officer of police for the area
 - b) persons or bodies who represent the interests of local gambling businesses in the area
 - c) persons or bodies who represent businesses and residents in its area who are likely to be affected by the Council exercising its functions under the Act.
- 9.3. The views of all these persons or bodies should be given appropriate weight when the policy is determined. The Council has complied with this statutory provision.
- 9.4. When formulating policy local authorities must have regard to the Equality Act 2010. The Act provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including licensing powers.
- 9.5. The section 149 Public Sector Equality Duty:
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - b) advance equality of opportunity between people who share a protected characteristic and those who do not;
 - c) foster good relations between people who share a protected characteristic and those who do not.
 - (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - a) tackle prejudice, and
 - b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

9.6. In determining any policy, the Council must comply with the public sector equality duty in section 149 of the 2010 Act. This is a duty to have regard to the need to achieve the statutory goals of section 149, rather than to achieve a particular result. The section 149 duty sits alongside and does not override statutory requirements in relation to determining gambling policy.

9.7. When members have before them material on issues relevant to section 149, such material must be specifically assessed in the context of section 149. However, because section 149 creates a requirement to “have regard” the fact a matter raised is relevant to section 149 will not automatically translate into a reason for refusing an application that would be sustainable in any subsequent appeal, given the legal requirement to determine applications in compliance with gambling legislation.

9.8. Officers have had these requirements in mind when developing the Policy and details are contained within the attached EIA at Appendix 5 to which members should have regard.

10. RESOURCE IMPLICATIONS (finance comments of the Executive Director Corporate Services)

10.1. Publication of the revised draft Policy will be progressed through existing resources.

11. APPENDICES

Appendix 1: Camden's draft Statement of Licensing Policy 2018-2021 under the Gambling Act 2005

Appendix 2: Camden's draft Local Area Profile under the Gambling Act 2005

Appendix 3: Responses to the statutory consultation

Appendix 4: Summary of proposed changes to the Policy

Appendix 5: Equalities Impact Assessment